

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6929 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DALPATBHAI RANCHHODBHAI DABHI

Versus

STATE OF GUJARAT

Appearance:

MR DP KINARIWALA for Petitioner

MR. D.P. JOSHI, AGP for Respondent No. 1, 3, 4

MR SUNIL C PATEL for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 22/01/98

ORAL JUDGEMENT

By way of this petition under Article 226 of the Constitution of India the petitioner has challenged the order of detention dated 22.7.1997 passed by the District Magistrate, Kheda. The order of detention has been passed by the District Magistrate in exercise of powers conferred on him under sub-Section (2) of Section 3 of

the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (hereinafter referred to as 'the Act'). The facts have been given in the grounds of detention and it is not necessary to restate them.

It is suffice to say that the petitioner was working as a Secretary/Manager of the Vachial Seva Sahakari Mandli Limited which was running a Fair Price Shop. The shop was inspected on various dates namely on 3.7.1997, 4.7.1997 and 15.7.1997. It is alleged that during inspection it was found that the stock was not maintained properly and wheat, rice and other essential articles were not given to the card holders but the same was given to others by making false bills and vouchers.

Mr. D.P. Kinariwala, learned counsel for the petitioner, has challenged the order of detention on various grounds. It is contended that the petitioner has not been supplied copy of the order of detention. Original file has been produced before him which bears an endorsement showing that the order of detention was received by the petitioner. In view of this, the first contention does not survive and the same is accordingly rejected.

It is next contended that the detaining authority has relied on the stock register which was seized by the raiding party but he has not been supplied with copy of the said stock register except two pages. An affidavit has been filed by Shri A.K. Sharma, District Magistrate, Anand stating that copies of the documents have been supplied to the petitioner which were relied on by him in arriving at subjective satisfaction, though it is not clearly mentioned, it clearly appears that the detaining authority has relied only said two pages of the register. In view of this, it was not necessary to supply copy of the entire stock register. In view of this, the authority relied upon by the learned counsel i.e. BUDHABHAI VS. DIST. MAGISTRATE 1989(1) G.L.R. 325 does not apply to the facts of the present case.

It is also contended that the licence is in the name of Vachial Seva Sahakari Mandli and therefore he cannot be said to be a dealer. In view of this, the petitioner does not fall within the clutches of Section 3 of the said Act. He has relied on a decision in the case of REVANAPPA VS. S.N. RAGUNATH reported in 1983 CRI. L. J. 321. I have gone through it. It was a case of salesman. In the present case the petitioner is not only a salesman but is also a Secretary of the Society. He has stated in the statement that as a Secretary it is only his responsibility to make purchase, maintaining register and sale the essential commodities. In view of

this, the activities of Secretary clearly fall within the ambit of the word 'instigating' any person to commit any offence punishable under the said Act as provided under Section 3(1)(a). In view of this, there is no substance in this contention as well.

Mr. Kinariwala next contended that the detaining authority has not recorded the satisfaction that by virtue of so-called diversion of the essential articles the main stream of the essential articles to be public at large has been distributed. Mr. A.K. Sharma, the detaining authority in his supplementary affidavit has stated that he had recorded the satisfaction that irregularities committed by the petitioner has jeopardised the public distribution system. He has also stated that he arrived at subjective satisfaction that essential articles was misappropriated and was not supplied to the ration card holders. He arrived at the said satisfaction on the basis of the statements of the persons recorded.

Having considered the affidavit filed by the parties and the material on record, I am satisfied that the detaining authority has recorded the requisite subjective satisfaction. In view of this, there is no substance in this petition.

Lastly it is contended that the documents supplied at pages 91, 92, 97 are illegible and therefore he has been prejudiced in making a proper representation. The documents at pages 91 and 92 are ration cards and the same has been produced before me. Having seen them it cannot be said that they are illegible and any prejudice is caused to the petitioner. In view of this, there is no substance in this contention also.

In view of the above findings, the Special Civil Application is rejected. Rule is discharged.

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